

Date: December 10, 2013

To: The Honorable Mayor and City Council

From: Tanya Wilson-Sejour, Planning Manager, Community Planning & Development

Re: Small Scale Land Use Plan Amendment – 1401 NE 123 Street, North Miami

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA, ADOPTING A SMALL SCALE LAND USE PLAN AMENDMENT TO THE CITY OF NORTH MIAMI COMPREHENSIVE PLAN FUTURE LAND USE MAP, FOR THE LOTS LOCATED AT 1401 NORTHEAST 123RD STREET, OTHERWISE DESCRIBED AS A PORTION OF LOTS 9, 10 AND 11 OF BETHEA SUBDIVISION, FROM HIGH DENSITY RESIDENTIAL TO INDUSTRIAL LAND USE DESIGNATION, IN ORDER TO ALLOW FOR THE FUTURE EXPANSION OF AN EXISTING BUSINESS, CONSISTENT WITH THE INTENT OF THE CITY OF NORTH MIAMI COMPREHENSIVE PLAN; AND FURTHER AUTHORIZING THE CITY MANAGER TO DO ALL THINGS NECESSARY TO EFFECTUATE THE SUBJECT SMALL SCALE LAND USE PLAN AMENDMENT, AS REQUIRED BY FLORIDA LAW; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION AND FOR AN EFFECTIVE DATE.

RECOMMENDATION

That the Mayor and Council approve the proposed ordinance to amend the Comprehensive Plan, Future Land Use Map (FLUM) for the subject site, from High Density Residential to Industrial Land Use consistent with the requirements of Article 3, Section 3-1105 of the City's Land Development Regulations.

PLANNING COMMISSION RECOMMENDATION

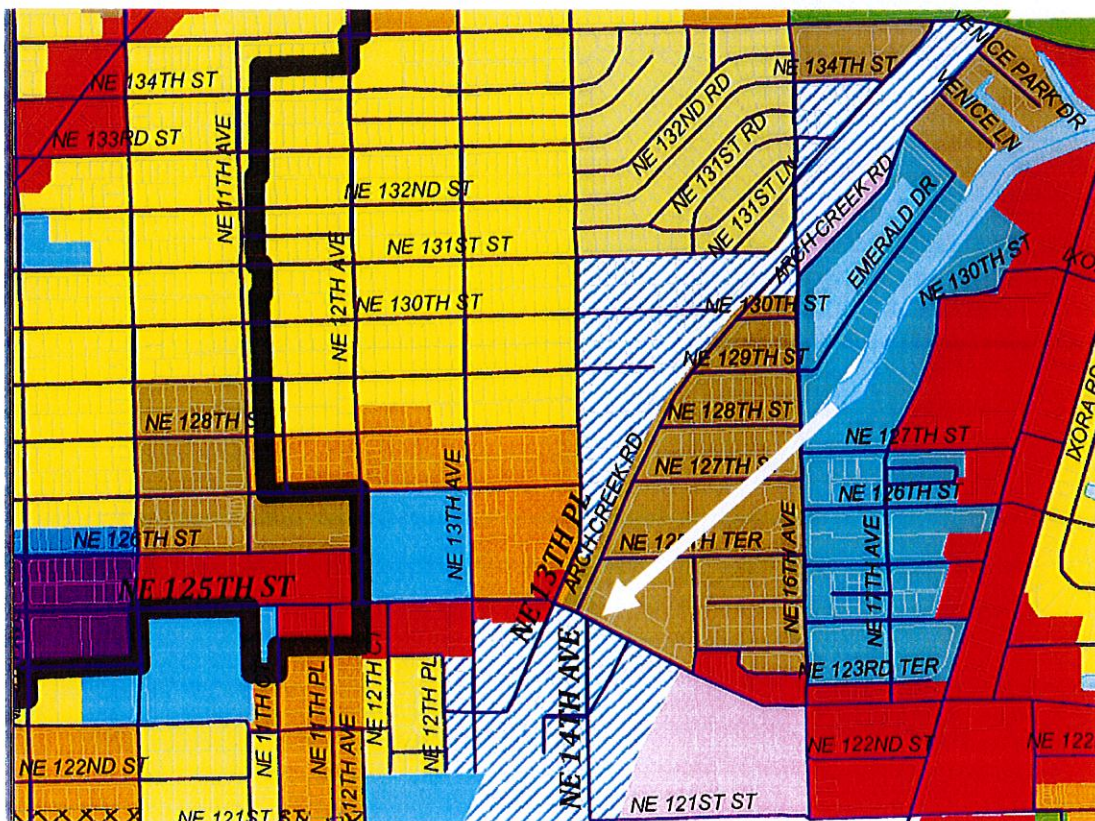
At its meeting on November 5, 2013 the Planning Commission (attended by Commissioners, Castor, Ernst, Siefried, Prevatel and James) reviewed and discussed the resolution to amend the City's future land use map for the subject site. The applicant's agent Mr Frank Wolland gave a presentation and explained that the business is a nonconforming use and as such is constrained from expanding its operations. The owner wishes to amend the land use in order to comply with the City's Comprehensive Plan requirements. The Commission generally agreed that the proposed request would remove the current hindrance to economic growth and allow for the future expansion and improvements to a longstanding local business. As part of the discussion the Board further recommended that applicant improve the façade of the current building and include lush landscaping to enhance its appearance along the NE 123 Street business corridor. As such, the Commission rendered a vote of 5-0 recommending approval of the proposed ordinance along with the additional conditions outlined in this report.





















BACKGROUND

The subject property, located at 1401 Northeast 123rd Street, is identified as a portion of Lots 9, 10 and 11 with Miami-Dade County Folio 06-2229-047-0020, consists of 22,100 square feet or .51 acres in size and is currently designated on the City Comprehensive Plan Future Land Use Map as High Density Residential land use. The site is comprised of three adjacent and abutting lots, situated east of the railroad tracks, which have been occupied by a nonconforming automotive repair business for over 20 years.

Property owner Ziv Rappaport (of Shani Management Inc) seeks to make several upgrades and expansion to his current business in order to include vehicle rental and car washing as additional services to prospective customers. However, Article 6 of the City's Land Development Regulations prohibits the expansion, enlargement or extension of nonconforming uses. As such, the property owner has filed an application for a Small Scale Land Use Plan (Map) Amendment, for a change in designation from High Density Residential to Industrial land use, in an effort to expand the business and provide additional services to the public.

Partial Land Use Map, Including Subject Site



Legend	
 Central City District Node Boundary	 Low Density Residential
 Neighborhood Redevelopment Overlay Boundary	 Low-Medium Density Residential
 Biscayne Park Height Transition Zone	 Medium Density Residential
 Central Business Commercial	 Mixed Use Low
 Commercial / Office	 Mixed Use Medium
 Community Facility	 Open Space / Recreation
 Community Facility-University	 Residential Office
 Conservation	 Utility
 High Density Residential	 Water
 Industrial	 Wetlands

ANALYSIS

Per Article 3, Section 3-1105 of the City's Land Development Regulations all requests for amendments to the City's Comprehensive Plan (Future Land Use Map) must satisfy the following minimum criteria:

- 1. Whether the application specifically advances any goal, objective or policy of the Comprehensive Plan:**

As proposed the land use amendment is consistent with the goals, objectives and policies of the Comprehensive Plan, specifically Policy 9.4.6 which requires that the City "Create land use designations and zoning regulations that encourage the retention, attraction and expansion of business and industry". Additionally policy 9.4.2 requires that the City "Introduce employment generating uses along major transportation corridors. Ensuring that employment generating land uses is compatible with neighborhood character through revisions in development regulations and permit review requirements." The proposed use is anticipated to create new employment, and enhance the overall quality of life within the City. If approved the proposed amendment is anticipated to ensure the continued success of a long standing local business, increase the City's tax base and help to improve the City's overall welfare.

- b. Its effect on the level of service of public infrastructure;**

The subject site is located on NE 123 Street, which is classified as a State owned (FDOT) minor arterial road. The City's Transportation Master Plan indicates that the roadway segment that provides primary access to the property (NE 123 Street) is operating at a level of service (LOS) E. It should be noted that Policy 2A 1.1 of the City's Comprehensive Plan requires that all roadways in the City shall operate at or above a LOS standard E. Additionally, the city of North Miami is designated as a Transportation Concurrency Exemption Area and Objective 2A.2 and Policy 2A.2.7 of the City Comprehensive Plan requires that the City actively pursue multimodal strategies to encourage a more pedestrian oriented environment that promotes walking, bicycling and public transit usage.

As part of the next approval phase the applicant will be required to submit a site plan and traffic analysis to the Development Review Committee in order to identify the future traffic impacts of the proposed development and determine if any mitigation is necessary. If it is determined that the future redevelopment of the site may potentially cause adverse impacts on any of the City's current or future infrastructure, the property owner would be required to mitigate these impacts that exceed the established level of service for a given public facility.

c. its effect on environmental resources;

The proposed land use plan amendment is not anticipated to have adverse impacts on the City's environmental resources. Per Section 5-805 of the City's LDR all new construction is required to incorporate LEED standards or the City's alternative green standards as part of its new development in order to support the City's environmental initiatives. If approved the applicant is required to construct an environmentally sustainable building with energy saving fixtures to minimize the water and electric consumption of the future development.

d. its effect on hurricane evacuation;

Policy 5A.3.1 of the Comprehensive Plan requires that the City "review of development proposals within the coastal planning area shall consider vehicular accessibility and internal circulation patterns to minimize the time required to evacuate the coastal planning area. Staff has determined that the subject site is not located in the Coastal Planning area.

e. Its effect on the availability of housing that is affordable to people who work in the City of North Miami; and

The proposed application will not affect the City's affordable housing efforts.

f. Any other effect that City staff determines is relevant to the City Council's decision on the application;

The applicant is encouraged to provide façade improvement, lush landscaping and screening along the frontage of the subject property in order to enhance the appearance of the corridor along NE 123 Street.

CONCLUSION

Based on our analysis, staff is of the opinion that the proposed land use amendment is consistent with the requirements of Chapter 163, Florida Statutes and is in keeping with the goals objectives and policies of the City's adopted Comprehensive Plan. Therefore staff **requests that the City Council approves the attached ordinance amending the Comprehensive Plan**

(Future Land Use Map) of the subject property from High Density Residential to Industrial land use subject to the following conditions:

1. The applicant is required to obtain site plan review and approval for the proposed new development prior to obtaining final building permits. As such the applicant shall contact the City's Zoning Administrator in order to submit plans for Development Review Committee (DRC) approval.
2. As part of the future business expansion the applicant is required to make building façade and landscaping improvements to the front of the subject property in order to enhance the appearance of the business corridor along NE 123 Street.
3. Per Section 5-805 of the City's LDR all new construction is required to incorporate LEED standards or the City's alternative green standards in order to support the City's environmental initiatives. As such any future building construction contemplated onsite must be environmentally sustainable with energy saving fixtures to minimize the water and electric consumption of the future development.
4. The applicant voluntarily agrees to limit the sites use solely for the following uses: auto service station, automotive/mechanical, vehicle rentals, vehicle service minor, vehicle washing, waxing and detailing. Said limitation shall be included in a restrictive covenant and shall constitute a covenant running with the land and be recorded, at Owner's expense, in the public records of Miami-Dade County, Florida.
5. The applicant shall submit a draft declaration of restrictive covenant to the office of the City Attorney at least 30 days from final Council approval date for review prior to final recordation. The applicant will also furnish a copy of the recorded document to the Community Planning & Development Department once the instrument has been recorded with the County.

Attachments: 1. Proposed Ordinance
2. Location Map & Site Survey
3. Land Use Map
4. Letter of intent

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA, ADOPTING A SMALL SCALE LAND USE PLAN AMENDMENT TO THE CITY OF NORTH MIAMI COMPREHENSIVE PLAN FUTURE LAND USE MAP, FOR THE LOTS LOCATED AT 1401 NORTHEAST 123RD STREET, OTHERWISE DESCRIBED AS A PORTION OF LOTS 9, 10 AND 11 OF BETHEA SUBDIVISION, FROM HIGH DENSITY RESIDENTIAL TO INDUSTRIAL LAND USE DESIGNATION, IN ORDER TO ALLOW FOR THE FUTURE EXPANSION OF AN EXISTING BUSINESS, CONSISTENT WITH THE INTENT OF THE CITY OF NORTH MIAMI COMPREHENSIVE PLAN; AND FURTHER AUTHORIZING THE CITY MANAGER TO DO ALL THINGS NECESSARY TO EFFECTUATE THE SUBJECT SMALL SCALE LAND USE PLAN AMENDMENT, AS REQUIRED BY FLORIDA LAW; PROVIDING FOR CONFLICTS, SEVERABILITY, CODIFICATION AND AN EFFECTIVE DATE.

WHEREAS, the Florida Legislature passed and adopted Chapter 163, Local Government Comprehensive Planning and Development Regulation Act, which requires the City of North Miami ("City") to adopt and enforce a comprehensive plan and corresponding future land use map; and

WHEREAS, Section 163.3187(1), Florida Statutes, allows local governments to periodically make small scale land use amendments to their comprehensive plan future land use map, if the proposed amendment: (a) does not exceed 10 acres, (b) the cumulative annual effect of the acreage for all adopted small scale amendments does not exceed 120 acres, (c) the proposed amendment does not involve a text change to the goals, policies, and objectives of the comprehensive plan, and (d) the property that is the subject of the proposed amendment is not located within an area of critical state concern; and

WHEREAS, the subject property, located at 1401 Northeast 123rd Street, is identified as a portion of Lots 9, 10 and 11 with Miami-Dade County Folio 06-2229-047-0020, consisting of 22,100 square feet or .51 acres in size ("Subject Property"), and is currently designated on the City Comprehensive Plan ("Comprehensive Plan") Future Land Use Map as High Density Residential land use; and

WHEREAS, the Subject Property is comprised of three adjacent and abutting lots which have been occupied by a non-confirming automotive repair business for many years; and

WHEREAS, Section 6-202 of the City Code of Ordinances, Land Development Regulations (“LDRs”) prohibits the expansion, enlargement or extension of nonconforming uses; and

WHEREAS, Shani Management, Inc., the owner of the Subject Property, filed an application for a Small Scale Land Use Plan amendment to change the use of the Subject Property from High Density Residential land use to Industrial land use, in order to expand the existing business and provide additional services to the public; and

WHEREAS, Policy 9.4.6 of the Comprehensive Plan, requires the City to “create land use designations and zoning regulations that encourage the retention, attraction and expansion of business and industry”; and

WHEREAS, Policy 9.4.2 of the Comprehensive Plan, further requires that the City introduce employment generating uses along major transportation corridors, ensuring that employment generating land uses are compatible with the character of the neighborhood, through revisions in development regulations and permit review requirements; and

WHEREAS, the proposed Small Scale Land Use Plan amendment is consistent with the Comprehensive Plan which encourages mixed use along major corridors and promotes redevelopment that enhances the public health, safety and welfare of the City; and

WHEREAS, the Planning Commission, after a duly noticed public hearing held on November 5, 2013, found the application to be consistent with the goals, policy and objectives of the Comprehensive Plan and recommended approval of the Small Scale Land Use Plan amendment to the Mayor and City Council; and

WHEREAS, the Mayor and City Council, find that the adoption of the proposed Small Scale Land Use amendment to the Future Land Use Map is consistent with the Comprehensive Plan and in the best interest of the City.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA, THAT:

Section 1. Subject Property. The property legally described in the attached

“Exhibit 1”, according to the Public Records of Miami-Dade County, Florida, is hereby re-designated from High Density Residential land use designation to Industrial land use designation.

Section 2. Authority of City Manager. The City Manager is hereby authorized to do all things necessary to effectuate the subject land use amendment as required by Florida law.

Section 3. Conflicts. All ordinances or parts of ordinances in conflict or inconsistent with this Ordinance are repealed.

Section 4. Severability. The provisions of this Ordinance are declared to be severable, and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 5. Codification. It is the intention of the City Council of the City of North Miami and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City of North Miami, Florida. The sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions; and that the word “Ordinance” shall be changed to “Section” or other appropriate word.

Section 6. Effective Date. This Ordinance shall not become effective until thirty one (31) days after the state land planning agency notifies the City that the plan amendment packet transmitted is complete if not otherwise challenged.

PASSED AND ADOPTED by a _____ vote of the Mayor and City Council of the City of North Miami, Florida, on first reading this _____ day of _____, 2013.

PASSED AND ADOPTED by a _____ vote of the Mayor and City Council of the City of North Miami, Florida, on second reading this _____ day of _____, 2013.

LUCIE M. TONDREAU
MAYOR

ATTEST:

MICHAEL A. ETIENNE, ESQ.
CITY CLERK

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:

REGINE M. MONESTIME
CITY ATTORNEY

SPONSORED BY: CITY ADMINISTRATION

Moved by: _____

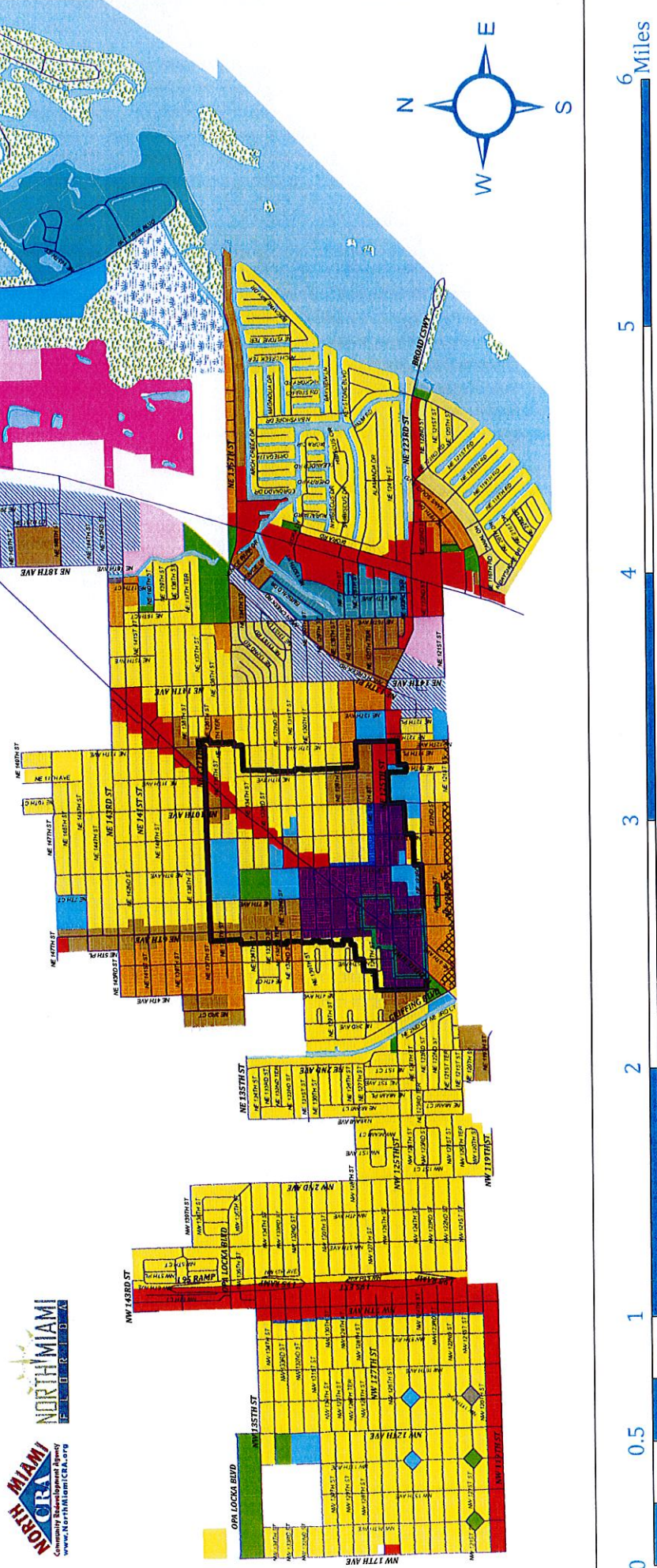
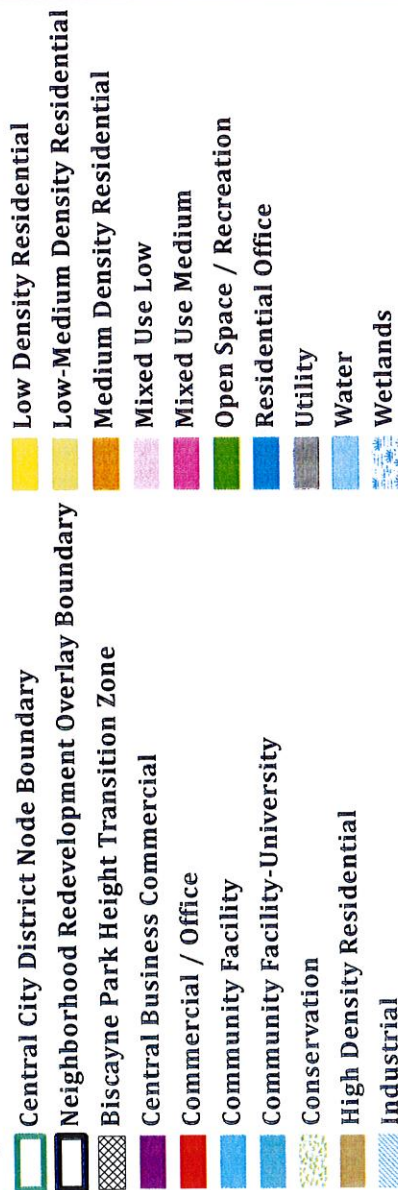
Seconded by: _____

Vote:

Mayor Lucie M. Tondreau	_____ (Yes)	_____ (No)
Vice Mayor Scott Galvin	_____ (Yes)	_____ (No)
Councilperson Carol Keys, Esq.	_____ (Yes)	_____ (No)
Councilperson Philippe Bien-Aime	_____ (Yes)	_____ (No)
Councilperson Marie Erlande Steril	_____ (Yes)	_____ (No)

Additions shown by underlining. Deletions shown by ~~overstriking~~.

Map created by Gareth Mann
Special Projects Manager
North Miami CRA
July 21st, 2010



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September 9, 2013

Community Planning and Development
12400 N.E. 8th Avenue
North Miami, Florida 33161
(305) 895.9825

Re: Letter of Intent Regarding the Land Use Designation and Re-Zoning of 1401 NE 123rd Street

Dear City Planning Commissioners and City Councilpersons,

Our Client, Shani Management (a.k.a. Brake and Auto Specialists), is an auto repair facility located at 1401 NE 123rd Street, near Arch Creek Road, in North Miami, Florida. Currently the property where the facility is located is zoned as an R-6 designation. Mr. Ziv Rapaport, the president of Shani Management and the owner of Brake and Auto Specialists, would like to expand the business to include car washing and car rentals. This expansion however, would not be permitted under the current zoning restrictions. We believe that it may be advisable for the property to be re-designated as M-1 industrial use, which would allow the use of not only auto repair, but also car washing and car rentals. In addition, to further our Client's intent to expand his business and to promote a better economy in the City of North Miami, we respectfully ask that the City Planning Commission and City Council Members approve an amendment to the Land Use Plan, changing the current land use designation from Residential High to Industrial. Thank you.

Most Cordially,

Frank Wolland
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fwolland@wolland.com

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